

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JS-6

CIVIL MINUTES - GENERAL

Case No.	2:22-CV-08980-RGK-JEM	Date	December 15, 2022
Title	<i>ERIKA FLORIAN CHACON et al v. FORD MOTOR COMPANY, et al</i>		

Present: The
Honorable

R. GARY KLAUSNER, U.S. DISTRICT JUDGE

Joseph Remigio (Not Present)

Not Reported

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiff:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: (IN CHAMBERS) Order Re: Order Remanding Action to State Court

On November 4, 2022, Erika Florian Chacon and Julio Cruz Flores (“Plaintiffs”) filed a Complaint against Ford Motor Company (“Defendant”) alleging violations of the Song-Beverly Warranty Act.

On December 12, 2022, Defendant removed the action to federal court alleging jurisdiction on the grounds of diversity of citizenship. Upon review of Defendant’s Notice of Removal, the Court hereby remands the action for lack of subject matter jurisdiction.

Pursuant to 28 U.S.C. § 1332, district courts shall have original jurisdiction over any civil action in which the parties are citizens of different states and the action involved an amount in controversy that exceeds \$75,000. After a plaintiff files a case in state court, the defendant attempting to remove the case to federal court bears the burden of proving the amount in controversy requirement has been met.

Lowdermilk v. United States Bank Nat'l Ass'n, 479 F.3d 994, 998 (9th Cir. 2007). If the complaint does not allege that the amount in controversy has been met, the removing defendant must plausibly allege in its notice of removal that the amount in controversy exceeds the jurisdictional threshold. *Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 553-54(2014). Whether or not the plaintiff challenges these allegations, a court may still insist that the jurisdictional requirement has been established by a preponderance of the evidence. *Gaus v. Miles, Inc.*, 980 F.2d 564, 566–67 (9th Cir. 1992).

In the complaint, Plaintiff seeks damages, including compensatory damages, restitution, statutory remedies, as well as attorneys’ fees and costs under the Song-Beverly Warranty Act. In support of its removal, Defendant calculates that based on the vehicle price of \$58,207.94, even accounting for mileage offset, the damages sought, including civil penalties surpass the \$75,000 jurisdictional minimum.

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However, a plaintiff's recovery is limited to the actual payment amount to the seller. See *Brady v. Mercedes-Benz USA, Inc.*, 243 F. Supp. 2d 1004, 1008 (N.D. Cal. 2002). Defendant's calculation is based on the assumption that Plaintiff paid the entire vehicle price. This assumption, however, is far to speculative to be plausible. While Plaintiff would be entitled to civil penalties if the action succeeds, given the deficiencies of Defendant's calculations with respect to actual damages, civil penalties, which are based on actual damages, are similarly deficient.

Accordingly, the Court finds that Defendant has failed to plausibly allege that the amount in controversy meets the jurisdictional requirement.

In light of the foregoing, the action is hereby **remanded** to state court for all further proceedings.

IT IS SO ORDERED.

Initials of Preparer _____ : _____